

SB 321: Revise Initiative Process Related to Public Involvement

February 19, 2013 @ 9:00 a.m.

Secretary of State's Office – Informational Witness Testimony

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Technical Issues:

Basic Process

- 1) Section 4, page 3, starting at line 19 (13-27-201(2)(c)), outlines the process -- it would happen at the end of Legislative Services' review and before final submission to the SOS.
- 2) Initiative referenda would be excluded. (Since they only have a maximum of 5 months for signature gathering, and since the bills being referred will have already been through hearings, excluding them has some logic.)

Technical Issues

- 1) **Subsection (2)(c)(ii)** assumes that LSD will forward the text and statements to the "appropriate legislative committee", but then **(3)(a)**:
 - a. does not outline which of the committee or committees (interim, state-tribal relations, water policy, or environmental quality council) would have "appropriate" jurisdiction, or
 - b. who chooses which committee(s) the initiative would be referred to; or
 - c. whether a ballot issue could be referred to multiple committees. (Maybe the drafter can tell us whether the LSD would have to make these calls?)
- 2) The bill assumes that ballot statements will always be provided before submission to LSD, but this is not always the case. If no ballot statements are submitted, there would be no review of the ballot statements, but the AG would write them, without a hearing.
 - a. Even if the ballot statements were submitted, the AG could still re-write them anyway, without any hearing (although the AG is supposed to solicit comments).
 - b. In other words, the public could assume from the hearing and sponsor's re-writing of the statements that the ballot statements would be final, but the AG could change the statements anyway.
- 3) There is no indication of what the notice for the hearing(s) would be, how long they could take, whether there would be any deadline for completion, what the ground rules would be, etc. (Maybe LSD could tell us if there is already a standard time period in place.)

Potential Policy Issues

- 1) Currently a ballot issue takes **about 45-60 days** to go through the process. Assuming 30 days for a public hearing and comment, this bill would add an extra month to the approval process. This could effectively kill certain ballot initiatives.
 - a. For example, in 2012 Jonathan Motl submitted I-166 (prohibiting corporate campaign contributions) on February 28, 2012. Final approval was on April 20, 2012, it received sufficient signatures and was passed by the voters by a margin of 75% to 25%. If a 30-day period for hearings would have been in place, it may not have been approved until May 20, 2012, leaving half the time for signature gathering (33 days for signature gathering instead of 63 days).

- b. In 2010, Cherrie Brady submitted I-165, a proposed repeal of the original I-148 medical marijuana act, on May 25, 2010. Final approval was on June 11. She gathered and submitted 15,000 certified signatures in the one week she had before the deadline. This was still short of the total required, but if she had to wait for a 30-day hearing, she would not have been able to gather any signatures before the deadline.
- 2) Although it may appear to provide a method for citizen input earlier in the process, this would add another layer of bureaucracy to the process and could represent an unconstitutional infringement on the initiative process.
- 3) This could effectively kill *citizen* ballot initiatives (vs. corporate or well-funded interest group ballot issues) due to the extra time, expense, and effort required to defend a ballot initiative in a hearing.